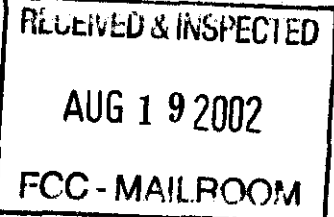


**Before the
Federal Communications Commission
Washington, D.C. 20554**

FCC 02M-79
01448

In the Matter of Applications of)	WT DOCKET NO. 02-179
)	
RESORT AVIATION SERVICES, INC.)	File No. 0000628303
)	
For Renewal of Aeronautical Advisory)	
Station WYT9, Coeur d'Alene Airport,)	
Hayden, Idaho)	
)	
and)	
)	
KOOTENAI COUNTY COEUR D'ALENE)	File No. 0000663272
AIRPORT)	
)	
For a New Aeronautical Advisory Station at)	
Coeur d'Alene Airport, Hayden, Idaho)	



MEMORANDUM OPINION AND ORDER

Issued: August 15, 2002 ; Released: August 19, 2002

Under consideration are a Motion to Enlarge Issues, filed on July 31, 2002, by Resort Aviation Services, Inc. ("Resort"); an Affidavit of Fred M. Miller in Support of Motion to Enlarge Issues, filed on July 31, 2002, by Resort; and Enforcement Bureau's Response to Resort Aviation's Motion to Enlarge Issues, filed on August 5, 2002, by the Enforcement Bureau ("Bureau"). Resort filed no reply to the Bureau's Response.

Resort seeks to enlarge the issues in this proceeding "to allow submission of evidence demonstrating that [it] had an unusually good record during the prior license term." Motion at 1. In support, Resort submits the affidavit of its president, Fred M. Miller. In his affidavit, Miller states that, between July 23, 2001, and January 3, 2002, Resort requested incoming pilots at the Coeur d'Alene Airport to voluntarily complete a survey form it prepared, that 75 different pilots completed the survey, and that all the surveys were "favorable." Affidavit at 2. In addition, Miller states that each new employee who is going to operate its Unicom system is required, within the first week of his or her hiring, to complete Unicom training. Miller also states that every new front desk employee undergoes two weeks of on-the-job training with a supervisor before being permitted to be "a solo operator of the Unicom." *Id.* at 3. The Bureau supports the addition of the issue.

Resort's motion will be denied. It has been held that the past record of an applicant is only relevant if it is found "unusually good" as to be indicative of unusual performance in the future operation of the facility being sought. The question is not whether the applicant has provided more than minimum service in the operation of its facility, but whether such service was "unusually good." *Policy Statement on Comparative Broadcast Hearings*, 1 FCC 2d 393, 398 (1965); *Gilbert Group, Inc.*, 49 RR 2d 1081 (1981).¹ Inherent in this evaluation is the requirement that applicants seeking to adduce evidence as to past performance establish "the bounds of average performance."

¹ While all of the authority cited in this order relates specifically to broadcast facilities, there appears to be no reason not to use the underlying principles enunciated in such authority to analyze Resort's motion.

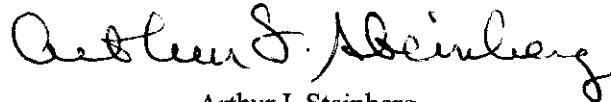
Policy Statement, 1 FCC 2d at 398. Only in this manner can a meaningful determination be made as to what constitutes "unusually good" performance. *E.g., Thomas C. and Essie L. Collins*, 93 FCC 2d 467, 471-72 (Rev. Bd. 1983).

It is well established that the proponent of a motion to enlarge issues bears the burden of coming forward with a *prima facie* showing in support of the requested issues. *Scott & Davis Enterprises, Inc.*, 88 FCC 2d 1090, 1097 (Rev. Bd. 1982). Resort has not met this burden. Thus, Resort has totally failed to establish "the bounds of average performance." *Policy Statement*, 1 FCC 2d at 398. Absent this basic information, its claims of "unusually good" performance cannot be tested or evaluated objectively. There is nothing with which to compare it. This is a fatal defect, as the Commission cannot be expected to rule in Resort's favor in a vacuum. *Collins*, 93 FCC 2d at 471-72.

Even considered on the merits, Resort's showing falls far short of the Commission's requirements. Its assertion that 75 different pilots completed its voluntary survey, and that all had a favorable opinion of Resort, is not sufficient to warrant the addition of the requested issue. The survey was taken over a period of less than 6 months, and Resort has failed to disclose the total number of pilots that used its facilities during that limited period. Consequently, there is no objective manner in which to evaluate Resort's submission. Moreover, Resort has known since early November 2001 that it was facing a comparative challenge² so it had an extremely strong incentive to perform well. Therefore, little or no value can be placed on its performance after that time. *Hampshire County Broadcasting Co., Inc.*, 50 RR 2d 626 (ALJ 1981). Finally, Resort is entitled to no credit for the training it has given to its employees. Once again, nothing has been submitted establishing that this type of training is in any way atypical of the training given to similarly situated employees of other Unicom facilities. In any event, any ordinary, reasonably prudent, businessman would want to train his employees before permitting them to perform their duties unsupervised. Given all of the above, Resort's motion must be denied.

Accordingly, IT IS ORDERED that the Motion to Enlarge Issues filed by Resort on July 31, 2002, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Arthur I. Steinberg
Administrative Law Judge

² The competing application of Kootenai County Coeur d'Alene Airport was submitted to the Commission on November 5, 2001.